



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/172249

PRELIMINARY RECITALS

Pursuant to a petition filed February 24, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on March 24, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly determined the Petitioner's FS benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On December 5, 2014, the agency pended the Petitioner's case when an agency worker found 3 cases with the same address, all listing rent expenses.

3. On December 8, 2014, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of shelter/rent expenses. The due date for the information was December 17, 2014.
4. On December 16, 2014, the Petitioner submitted rent receipts to the agency for September 1, 2014, October 1, 2014, November 1, 2014 and December 1, 2014 showing \$600 was paid by the Petitioner. The receipts are signed by [REDACTED].
5. On December 18, 2014, the agency updated the Petitioner's case to reflect [REDACTED] and his daughter in Petitioner's household. Petitioner also reported that she and [REDACTED] share household expenses..
6. On December 19, 2014, the agency issued another Notice of Proof Needed to the Petitioner requesting verification of shelter/rent expenses. The due date for the information was December 29, 2014.
7. On December 19, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would be \$104/month effective January 1, 2015. The allotment was based on gross household income of \$754.78/month and rent of \$1215/month. The notice also informed the Petitioner of the right to appeal the agency determination by filing a request for hearing with the Division of Hearings and Appeals no later than April 2, 2015.
8. On December 30, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would be \$101/month effective February 1, 2015. The allotment was based on gross household income of \$761.78/month and rent of \$600/month. The notice also informed the Petitioner of the right to appeal the agency determination by filing a request for hearing with the Division of Hearings and Appeals no later than May 4, 2015.
9. On January 26, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would be \$94/month effective March 1, 2015. The allotment was based on gross household income of \$776.78/month and rent of \$600/month. The notice also informed the Petitioner of the right to appeal the agency determination by filing a request for hearing with the Division of Hearings and Appeals no later than June 1, 2015.
10. On February 24, 2016, [REDACTED] submitted information to the agency regarding utility expenses that the Petitioner pays.
11. On February 25, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would be \$194/month effective March 1, 2016. The allotment was based on gross household income of \$776.78/month, rent of \$450/month and a standard utility deduction.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by the Department, or its agents, concerning FoodShare benefits must be filed within 90 days of the date of the action.

In this case, the Petitioner's representative testified that he filed an appeal concerning the agency's action effective March 1, 2015 to allot \$94/month to the Petitioner. As to that action, the Petitioner's appeal is untimely and I no longer have jurisdiction to rule on that action.

As to the agency action effective March 1, 2016, I conclude the agency properly determined the Petitioner's benefits. She is receiving the maximum allotment currently allowed for a one person household.

CONCLUSIONS OF LAW

The Petitioner's appeal is untimely as to the agency action effective March 1, 2015 to allot \$94/month in FS benefits to the Petitioner.

The agency properly determined the Petitioner's FS benefits at \$194/month effective March 1, 2016.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of April, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 19, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability